No. 87-1269

Supreme Court, U.S.
FILED
MAR 30 1988
JOSEPH F. SPANIOL, JR.
CLERK

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1987

MARCH FONG EU, Secretary of State of the State of California; JOHN K. VAN DE KAMP, Attorney General of the State of California; ARLO SMITH, District Attorney of San Francisco County; and LEO HIMMELSBACH, District Attorney of Santa Clara County,

Appellants,

v.

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE; SAN FRANCISCO COUNTY REPUBLICAN CENTRAL COMMITTEE; LOS ANGELES COUNTY DEMOCRATIC CENTRAL COMMITTEE; ALAMEDA COUNTY DEMOCRATIC CENTRAL COMMITTEE; SANTA CLARA COUNTY DEMOCRATIC CENTRAL COMMITTEE; SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE; PLACER COUNTY DEMOCRATIC CENTRAL COMMITTEE; STATE CENTRAL COMMITTEE OF THE LIBERTARIAN PARTY OF CALIFORNIA; BERT COFFEY; NANCY WALKER; LINDA POST; DOLPH ANDREWS; CAROLYN WALLACE; MARY KING; THOMAS ROMERO; MARY GINGELL; DAVID E. STURROCK; WALTER LAYSON; MARY VAIL; ROY CHRISTMAN; JAMES FAY; NORTHERN CALIFORNIA COMMITTEE FOR PARTY RENEWAL; SOUTHERN CALIFORNIA COMMITTEE FOR PARTY RENEWAL; and NATIONAL COMMITTEE FOR PARTY RENEWAL,

Appellees.

On Appeal from the United States Court of Appeals for the Ninth Circuit

ADDENDUM TO MOTION TO AFFIRM OR TO DISMISS

JAMES J. BROSNAHAN*
CEDRIC C. CHAO
PAUL FLUM
MORRISON & FOERSTER
345 California Street
San Francisco, CA 94104- 2105
(415) 434-7000
Attorneys for Appellees
* Denotes Counsel of Record

TABLE OF CONTENTS

		Page
ADDENDUM A	Declaration of Roy Christman in Support of Plaintiffs' Motion for a Summary Judgment	1a
ADDENDUM B	Declaration of Bert Coffey in Support of Plaintiffs' Motion for Summary Judgment	9a
ADDENDUM C	Declaration of Edmond Costantini in Support of Plaintiffs' Motion for Summary Judgment	14a
ADDENDUM D	Supplemental Declaration of Edmond Costantini in Support of Plaintiffs' Motion for Summary Judgment	18a
ADDENDUM E	Declaration of Mary Gingell in Support of Plaintiffs' Motion for Summary Judgment	24a
ADDENDUM F	Declaration of Peter D. Kelly	27a
ADDENDUM G	Declaration of Mary King in Support of Plaintiffs' Motion for Summary Judgment	36a
ADDENDUM H	Supplemental Declaration of Walter W. Layson in Support of Plaintiffs' Motion for Summary Judgment	42a
ADDENDUM I	Declaration of Linda Post in Support of Plaintiffs' Motion for Summary Judgment	45a
ADDENDUM J	Supplemental Declaration of Linda Post in Support of Plaintiffs' Motion for Summary Judgment	52a

		Page
ADDENDUM K	Declaration of Thomas Romero in Support of Plaintiffs' Motion for Summary Judgment	56a
ADDENDUM L	Declaration of Mark W.A. Hinkle in Opposition to Appellants' Motion for Stay of Mandate	61a
ADDENDUM M	Supplemental Declaration of Peter D. Kelly in Opposition to Appellants' Renewed Motion for Stay of Mandate	63a
ADDENDUM N	Declaration of Carole V. Migden in Opposition to Appellants' Renewed Motion for Stay of Mandate	69a
ADDENDUM O	Declaration of Charles H. Bell, Jr.	72a
ADDENDUM P	Declaration of Mark W.A. Hinkle in Support of Appellees' Motion to Affirm or to Dismiss	90a
ADDENDUM Q	Declaration of Peter D. Kelly in Support of Appellees' Motion to Affirm or to Dismiss	92a

ADDENDUM A

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 8, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF ROY CHRISTMAN IN SUPPORT OF PLAINTIFFS' MOTION FOR A SUMMARY JUDGMENT

I, ROY CHRISTMAN, declare as follows:

1. I make this declaration in support of plaintiffs' motion for a summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am a member of the Santa Clara County Democratic Central Committee (the

"County Central Committee"). I have been a member of the County Central Committee since January 1979 and served as Chair from January 1981 to January 1983. I am a member of the Democratic State Central Committee. I have been an active participant in the activities of the Democratic Party of California since 1970.

2. As a member of the County Central Committee, I would like that Committee to endorse, support, or oppose candidates for nomination in direct primary elections, including candidates running for State Senate, State Assembly, and United States House of Representatives in June 1984 and in 1986. As a member of the State Central Committee, I would like that Committee also to endorse, support, or oppose candidates running for nomination in direct primary elections, including candidates running for President, United States Senator, Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Controller. I would encourage and contribute to this endorsement process if that process were not prohibited by section 11702 of the California Elections Code (the "Elections Code") and the threat of enforcement of this provision by the defendants.

3. I would also like the County Central Committee to endorse, support, or oppose candidates for school, county, and city offices, including candidates running for the County Board of Supervisors, mayor, city council, and school boards in the 1984, 1985, and 1986 elections. I would encourage and contribute to this endorsement process if that process were not prohibited by section 6, article II of the

California Constitution and section 37 of the Elections Code and the threat of enforcement of these provisions by the defendants.

4. I would have favored endorsing Keith Raffel in the 1982 June primary race that determined the Democratic nominee for the 12th Congressional District. Mr. Raffel was a young, bright, and articulate Democrat, experienced in Washington, D.C. politics. It was my belief that of all the primary candidates, only Raffel would have seriously challenged the Republican candidate. Because it was not able to endorse or support Raffel, the County Central Committee was not able to express its views regarding Raffel's superior qualifications, nor was it able to work to select and develop the candidate that we believed would have been best for the party. This contributed to Raffel's loss in the primary.

5. As for nonpartisan elections, the County Central Committee would have endorsed Anita Duarte in the 1983 race for the County Board of Supervisors. We did not do so because that would have been in violation of the Elections Code and the California Constitution.

6. As these examples demonstrate, the County Central Committee's inability to endorse candidates severely hinders it in performing some of its most vital functions. It cannot educate the public on a candidate's position on the issues, nor can it recruit or develop candidates for office. The latter function is particularly crucial right now in the 22nd Assembly District, where no Democrat has registered or is likely to register to run in the June primary. Because the County Central Committee cannot support any candidate in this race, it cannot recruit

anyone to run in the primary. The voters in the 22nd District will, therefore, have no choice in the November general election. Such a result undermines the very basis of our democratic form of government.

7. Numerous unofficial groups regularly endorse candidates in primary and nonpartisan elections in Santa Clara County. These groups include the National Women's Political Caucus of Santa Clara County, the Loma Prieta Chapter of the Sierra Club, labor organizations such as the Santa Clara County Central Labor Council and the California Teachers' Association, ad hoc political groups such as Associated Homeowners of Saratoga and the West Valley Community College Review Council, and newspapers, such as the San Jose Mercury News. True and correct copies of endorsement materials distributed by some of these groups are appended hereto as Exhibit A.

8. Allowing these organizations to endorse, but forbidding that right to our County Central Committee makes no sense. All of the organizations mentioned in paragraph 7 are private interest groups. Their endorsement decisions are made at closed meetings and are based on a narrow range of issues. In contrast, the County Central Committee holds open meetings. Its members are elected by the voters, and its decisions reflect a broad range of interests. Our endorsement would, therefore, be much more democratic and meaningful. Moreover, if our government is going to be responsible to the people, voters must be given as much information as possible. By censoring the County Central Committee's right to express its opinion, the state is denying voters a valuable and basic piece of information.

9. In many school, county, and city elections, the race is between a candidate whom people know is a Republican and a candidate whom people know is a Democrat. In recent San Jose and Santa Clara mayoral races, for example, it was clear to any active and informed voter that they were faced with a contest between a Republican and a Democrat.

10. Allowing anyone to endorse except for the County Central Committee has also led to voter confusion. Misleading slate mailers have been distributed that suggest the County Central Committee has endorsed a candidate when, in fact, no such endorsement had, or indeed could have been issued. One such mailer, distributed in the 1982 general election campaign, stated that it was a "Democratic Voter Guide." Because I was then Chair of the County Central Committee, the press asked me to comment upon this mailer. I told them that I believed it was an improper step by the candidate who distributed it, because it could mislead voters into believing an official endorsement had been given. A true and correct copy of this mailer is appended hereto as Exhibit B. If the County Central Committee were allowed to endorse, we could fill the vacuum presently occupied by such mailers and reduce voter confusion.

11. Many people have called to ask me who the County Central Committee is supporting in given races. I always try to tell them something about the candidates, but I am also forced to say that the County Central Committee is prohibited by law from endorsing or supporting such candidates.

12. I became a member of the County Central Committee because I shared the political beliefs of the other members of that organization. I thought that the County Central Committee could advance these shared political beliefs far more effectively than I could as a single individual. My individual endorsement is worth far less than the collective endorsement of the County Central Committee as a whole. Since the Committee cannot endorse in primary or nonpartisan campaigns, our whole purpose in associating together has been frustrated.

13. Our County Central Committee would adopt more flexible rules regulating the time and place of our meetings than those contained in sections 8920 and 8921 of the Elections Code. Other than our first meeting, we regularly meet in a location other than the County Courthouse, with no adverse effects. Having to hold our first meeting in the Courthouse has caused problems sin the past. For example, one year we had to delay our meeting because one member could not find the building.

14. As a member of the Democratic State Central Committee and an active member of the Democratic Party, I would also like to abolish sections 8660, 8661, 8663, 8664, 8665 of the Elections Code, to allow that Committee to control the method of selecting its own members. A party should be allowed to determine how to select members of its central policymaking body, the body that controls the internal affairs of the organization. Currently, we are not allowed to choose the selection method that would best meet the needs of our party.

15. In addition, I would favor the adoption of more flexible rules regulating the time and place of State Central Committee meetings contained in section 8710 of the Elections Code. Cities should be able to compete for the meeting. The meeting attracts publicity and would bolster the strength of the local party organization in the city where it is held. As it is, we must meet only in Sacramento, depriving all other California cities and local party organizations of the benefits the meeting offers.

16. Neither I, nor the County Central Committee, nor the State Central Committee, has sought to disobey these rules mentioned in paragraphs 13 to 15 because of the threat of enforcement of these provisions by the defendants.

17. I am familiar with an October 1983 poll conducted and published by The Field Institute which stated that 85% of all adults interview said they followed events in government and public affairs, and 76% agreed that there are important differences in what the Democratic and Republican Parties stand for.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at San Francisco, California, this 6th day of March, 1984.

/s/ Roy Christman
ROY CHRISTMAN

[Proof of Service Omitted]

[Exhibits A and B Omitted]

ADDENDUM B

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF BERT COFFEY IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, BERT COFFEY, declare as follows:

1. I make this declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I was the Chairperson of the Democratic State Central Committee (the "State

Central Committee") from 1977 to 1979. I am currently a member of the Executive Committee of the State Central Committee and have held that position since 1982. I have been an active member of the Democratic Party since 1948, and have held various party offices, including the Northern Chair of the State Central Committee (1975-77), Chair of the Contra Costa County Democratic Central Committee (1968-70, and 1980-82), member of the Democratic National Committee (1980-present), and member of the Hunt Commission, which was formed to review and write the rules governing the 1984 Democratic National Convention (1983).

2. It is crucial for the Democratic Party to be allowed to endorse, support, or oppose candidates for public office. Without that ability, the Party is a powerless, ineffective organization. Shortly after I was elected Chair of the State Central Committee I approached a person who traditionally had been very generous in making large contributions to Democratic candidates. Thinking that he might be willing to contribute to the Party, I asked him if he might want to donate some money. He laughed, turned to me and said that I was crazy, that he "gave direct." He meant that he gave his money directly to the candidates and not to the Party. This individual recognized that without the ability to work for the election or defeat of candidates, the Party serves no important function.

3. Because the Party is so severely regulated, the Party organization is unable to attract many talented and interested people who would otherwise have joined the Party. Deprived of quality personnel and restricted from endorsing candidates, the Party is so weakened that it

cannot fulfill the essential roles it must play in our democracy. One of these roles is holding elected officials accountable to the citizenry. Without a strong party system, wealthy individuals and special interest groups have an inordinate amount of control over elected officials. Another of the roles that a party should play is pursuing and advocating the political positions which I and other party adherents wish to espouse. Because of its inability to endorse candidates and its resulting weakness, the Party cannot effectively serve this role.

4. I would therefore like the State Central Committee and the County Central Committee to endorse, support, or oppose candidates running for nomination in direct primary elections and would encourage and contribute to this endorsement process if that process were not prohibited by section 11702 of the California Elections Code ("the Elections Code") and the threat of enforcement of this provision by the defendants. I would also like the County Central Committees to endorse, support, or oppose candidates for school, county and city offices and would encourage and contribute to this endorsement process if that process were not prohibited by section 6, article II of the California Constitution and section 37 of the Elections Code and the threat of enforcement of these provisions by the defendants.

5. As Chair of the State Central Committee, I was aware of the attitudes and preferences of the Party's members as to political issues. I carefully considered and attempted to accommodate the wishes of the majority of these members in carrying out my duties as Chair.

6. It is demonstrably not true that party endorsements will predetermine the victor in a political election. There have been countless cases in the history of American politics where the endorsees of political parties have lost. In general, voters are independent and will not automatically rubber stamp the party endorsee.

7. During my term as Chair of the State Central Committee, I was heavily involved in the California Democratic Party's effort to reform the statutes governing its organizational structure. Before 1979, the Party had tried for twenty years to persuade the State Legislature to change the rules governing the selection of members to the State Central Committee. The Party was dissatisfied because the vast majority of State Central Committee members were party nominees and their appointees, leaving only a few seats for the County Central Committees. Time after time, however, the Legislature had rebuffed any effort to reform this unrepresentative system.

8. When I became Chair, a series of hearings were conducted to determine the attitude of the Party membership towards reforming the method of selecting members to the State Central Committee. Other members of the Party leadership and I presented a proposal based upon these meetings to the legislature. Although the Legislature finally agreed to change the rules, they did so only after a protracted, hard fought battle and even then substantially deviated form the Party's proposal. I am still not satisfied with the statutorily prescribed method of selecting the State Central Committee, as set forth in sections 8660, 8661, 8663, 8664, 8665, 8667, and 8669 of the Elections Code. They still do not provide for adequate representation of the County

Central Committees on the Democratic Party's central policy making body.

9. Even to the extent that they improved the rules, the 1979 reforms could be erased at any time by the Legislature. A bill proposed last year by Assemblyman Richard Floyd, A.B. 1977, would have done that, returning the Party in large part to the unsatisfactory pre-1979 method of selecting members to the State Central Committee. This illustrates the danger of putting the Democratic Party's constitutional rights into the hands of the Legislature.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Richmond, California, this 3rd day of March, 1984.

/s/ Bert Coffey
BERT COFFEY

ADDENDUM C

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF EDMOND COSTANTINI IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, EDMOND COSTANTINI, declare as follows:

1. I am a member of both the State Central Committee of the Democratic Party of California and of that body's Executive Board. I have been a member of both organizations since 1978. I also serve as

chair of the California Credentials Committee. I have been an active member of the Democratic Party since 1960.

2. As chair of the Credentials Committee, I preside over meetings held to consider whether individuals should be credentialed as members of the State Central Committee. In 1980, the credentials of Tom Metzger were challenged, placing the matter before our Committee. Tom Metzger had been a Democratic nominee for Congress from the San Diego area, but had been defeated by Representative Clair Burgener, a Republican. Mr. Metzger received the nomination even though he was a Grand Dragon of the Ku Klux Klan and stood for policies abhorred by the Democratic Party and its members. Because of the provisions of the Elections Code, the Democratic party could not promote the candidacy of a more representative Democrat or argue to the electorate that Mr. Metzger's program and ideas should be rejected. The Credentials Committee did not credential Mr. Metzger, a position affirmed by the whole State Central Committee.

3. I recently learned that in the spring of 1983 Assemblyman Richard Floyd introduced a bill into the Assembly, A.B. 1977, that would have changed the method of selecting the members of the Democratic State Central Committee, forcing the Party to revert in large part to the system that had existed before 1979. A true and correct copy of that bill as it was originally proposed is appended hereto as Exhibit A. The State party had long deliberated over the matter of internal reform–a process in which I was intimately involved–and, after the conclusion of those deliberations, had succeeded with considerable difficulty in persuading the legislature to abandon the pre-1979 structure. The

Party advocated reform because the old system did not provide for the fair representation of County Central Committees or grass roots activists on the State Central Committee. In short, it did not meet the needs of the party. It was therefore distressing to learn that this bill, A.B. 1977, had been introduced into the legislature without consultation with the Party and, as far as I know, without the knowledge of the official Party leadership. The Party has avoided being injured by this misconceived bill because of legislative amendments that have struck these offending provisions.

4. The danger of allowing the Legislature to have such extensive control over a political party's structure is well illustrated by this example. Only the party can best judge its needs and thus best structure its organization. As long as the legislature has the power to change the rules governing the internal affairs of a political party at will, the health and welfare of that party is in constant jeopardy.

5. Late in 1983, I learned that the California Fair Political Practices Commission had directed its staff to prepare a report on slate mailings in the 1982 primary campaigns. I contacted a member of the staff to request a copy of that report, which that person later gave me. It identifies a number of problems associated with slate mailings which affect the health and well-being of our political system. I agree with the report's conclusion on page 55 that these problems could be ameliorated by allowing "party endorsements in primary campaigns so as to offset the 'growing power' of slate mailing." I have appended hereto as Exhibit B a true and correct copy of this report.

6. Also appended hereto, as Exhibit C, is a true and correct copy of a slate mailer distributed by Willard Murray in the Los Angeles area in June 1982.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at Davis, California, this 29th day of February, 1984.

/s/ Edmond Costantini
PROFESSOR EDMOND COSTANTINI

[Exhibits A Through C Omitted]

ADDENDUM D

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs.

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed April 2, 1984]

Date: April 9, 1984
Time: 10:30 a.m.

SUPPLEMENTAL DECLARATION OF EDMOND COSTANTINI IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, EDMOND COSTANTINI declare as follows:

1. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am a member of both the State Central Committee of the Democratic Party of California ("State Central Committee") and of that body's Executive Board. I have been

a member of both organizations since 1978. I also serve as chair of the Credentials Committee of the State Central Committee. I have been an active member of the California Democratic Party since 1960.

2. I hold a Ph.D. in political science from the University of California at Berkeley, and have been a professor of Political Science at the University of California at Davis since 1964. My areas of expertise are political parties, political leadership, and public opinion.

3. On October 15, 1983, I attended a meeting of the Executive Board of the State Central Committee which was held in San Diego, California.

4. At that meeting, I , along with other members of the Executive Board of the State Central Committee, presented to the full Executive Board a resolution supporting the above-captioned lawsuit. The text of the resolution, as it was actually presented, is contained in Exhibit A to this Declaration. The resolution passed by a voice vote without audible dissent. This resolution was presented, and a vote was taken, pursuant to the rules applicable to the Executive Board. For example, we collected the signatures of at least fifty (50) Executive Board members on behalf of the resolution before we presented it for the consideration of the full Board. (*See* Article VIII, Section 7(d) of the By-Laws of the Democratic State Central Committee, attached as Exhibit 2 to Defendants' Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment and in Support of Defendants' Motions to Dismiss and for Summary Judgment.)

5. The resolution recognized that the Party is "subject to excessive governmental regulation, with state laws prescribing in extraordinary detail how they are to be organized, forbidding them to endorse candidates entered in their own primaries; and preventing them from endorsing candidates for local elective office . . . ." and therefore resolved that "[t]he Executive Board of the California Democratic Party supports, in principle, the aforementioned suit . . . ."

6. The question of the State Central Committee joining this lawsuit as a co-plaintiff was not put before the Executive Board.

7. I am not a named plaintiff in this lawsuit. However, I believe strongly in the objectives of all three causes of action of this lawsuit.

8. The right of political party organizations such as county central committees to endorse political candidates, which right is sought in this lawsuit, is essential to the vitality of the political parties. The ability of the political party organizations to speak out is a necessary element of the public debate and free exchange of ideas which is a principle on which our government is founded.

9. Political parties thrive on the competition of ideas, the clash of ambitions, and the conflict of interests characteristic of all robust democratic institutions. One of their special functions historically and worldwide is that they institutionalize conflict among the citizenry, and that they provide that citizenry an organizational forum in which conflict can be expressed and resolved peacefully so that common purposes can be more effectively pursued.

10. Contests for a party's endorsements are indeed occasions when the various forces of conflict may come into play. It is by no means self-evident that, as a general rule, suppressing those forces within party organizations leads them to become healthier and more vital places or more attractive vehicles for public participation in the process of self government. To the contrary, suppressing the competition among ideas and among candidates would destroy the vitality and meaning of the party organizations.

11. In a given instance, prudence might dictate that a county central committee not become involved in a particular primary or local election contest. Plaintiffs' lawsuit would in no way prevent official party organizations from exercising such self-restraint if for some reason the organization believed such restraint to be in its best interests. In other words, the members of those organizations could find on their own accord and on the basis of their own intelligence that an endorsement in a given instance would be politically unwise or imprudent–a conclusion which defendants paternistically claim the State of California should reach for them in *every* instance.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Davis, California, this 30th day of March, 1984.

/s/ Edmond Costantini
EDMOND COSTANTINI

EXHIBIT A
RESOLUTION FOR CONSIDERATON AT DSCC EXECUTIVE BOARD MEETING

October 15, 1983

WHEREAS: California's Political Parties are subject to excessive governmental regulation, with state laws prescribing in extraordinary detail how they are to be organized, forbidding them to endorse candidates entered in their own primaries; and preventing them from endorsing candidates for local elective office;

WHEREAS: a number of court decisions across the nation suggest that this excessive state regulation of parties violates the First Amendment to the U.S. Constitution;

WHEREAS: the California Committee on Party Renewal–a multiparty group of party leaders and other interested persons dedicated to the reinvigoration of political parties–is filing suit in federal court to end excessive governmental intrusion into party matters;

WHEREAS: one of the state's most distinguished trial lawyers–James Brosnahan of the prestigious San Francisco firm of Morrison & Foerster–has agreed to serve on a pro bono basis as counsel in this effort;

WHEREAS: several Democratic (and other) organizations and party leaders have already agreed to serve as colitigants–including, for example, the Democratic County Committees in the following

counties: San Francisco; Alameda; Los Angeles; Santa Clara; Solano.

AND WHEREAS: winning the suit will not require parties to reorganize or to endorse in primaries and local elections, but will only allow them to make decisions on these matters of their own accord;

THEREFORE, BE IT RESOLVED THAT:

The Executive Board of the California Democratic Party supports, in principle, the aforementioned suit;

THEREFORE, BE IT FURTHER RESOLVED THAT:

The State Party Chair bring these matters to the attention of Democratic Party Leaders in the Legislature and present them with an opportunity to offer legislative input regarding the aforementioned suit; and,

THEREFORE, BE IT FURTHER RESOLVED THAT:

If, because of the filing of the aforementioned suit, it becomes necessary or advisable for the State Party to come to a decision on this matter prior to the February 1984 State Party Convention, the State Party officers are delegated the responsibility for determining whether the Party shall join the suit as co-plaintiff.

ADDENDUM E

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF MARY GINGELL IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, MARY GINGELL, declare as follows:

1. I make this declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am a member of the State Central Committee of the Libertarian Party of

California and serve on the Executive Committee of that body. I have been a member of the State Central Committee since November 1981 and served as Chair from August 1982 to February 1984. I have been an active participant in the activities of the Libertarian Party of California since June 1981.

3. The organizations of the Libertarian Party have endorsed candidates running for school, county, or city offices in the past, including candidates running for Mayor of San Francisco, Mayor of Los Angeles, San Francisco County Board of Supervisors, Santa Cruz County Board of Supervisors, Palo Alto School Board, and Santa Barbara School Board.

4. The ability of the Libertarian Party organization to endorse candidates is crucial. Ours is a small, relatively young party. We must be free to recruit and train strong, capable candidates in primary races if we are to develop as a party. Only by being free to support primary candidates for partisan office can we hope to accomplish this objective. In school, county, and city elections, it is important for our voice to be heard, as our opinions are not being expressed by other unofficial organizations. If we are silenced, then the electorate is deprived of the Libertarian point of view.

5. The Libertarian Party of California was not formed until 1972. In 1980 we became a qualified party, governed by the provisions of the California Elections Code, and entitled to participate in primary elections. Before 1980, our party had organized itself by regions, not counties. When we became a qualified party, however, we were

forced by the provisions of the Elections Code to change our structure and our internal party rules, including a change to an organization based on counties. These provisions stated that we had to abide by the detailed statutory provisions governing the Republican Party, the Democratic Party, the American Independent Party, or the Peace and Freedom Party, all of which have goals and concerns different from those of the Libertarian Party. Although we selected the rules of the Peace and Freedom Party as the best alternative, we were still burdened by having to establish a totally new statewide organization that differed from our preferred and natural party structure.

6. The Libertarian Party has unsuccessfully tried to persuade the State Legislature to enact legislation specifically tailored to our organizational needs so that we would not have to operate under the burdensome rules governing the Peace and Freedom Party. In 1981, a bill that would have accomplished that goal was introduced by Assemblyman Robert Naylor. The Assembly Elections Committee considered this bill, but did not pass it, illustrating the danger of leaving in the Legislature the power to regulate a party organization's internal affairs.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at Costa Mesa, California, this 29 day of February, 1984.

/s/ Mary T. Gingell
MARY GINGELL

ADDENDUM F

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs/Appellees,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants/Appellants.

[Filed January 16, 1985]

DECLARATION OF PETER D. KELLY

I, PETER D. KELLY, declare as follows:

1. I am and have been since February 1, 1983, the State Chair of the California Democratic Party. This is a two-year position. I am an attorney by profession, and have my law offices in the City of Los Angeles. If called as a witness, I could testify competently to the matters herein.

2. The Democratic State Central Committee is the official governing body of the Democratic party of California, as provided in Elections Code § 8777.

3. The by-laws of the Democratic State Central Committee provide that the State Chair shall be the principal executive officer and the official spokesman of the California Democratic Party. The by-laws also provide that the State Chair shall do everything necessary to carry into effect the purposes of this organization.

4. The by-laws further provide that there shall be an Executive Board which shall have all the powers and duties of the Democratic State Central Committee when it is not in actual session.

5. The membership of the Executive Board consists of the following members of the State Central Committee:

(a) The United States Senators;

(b) The Governor, Lieutenant Governor, Treasurer, Controller, Attorney General, Secretary of State and all members of the State Board of Equalization;

(c) Two members of the House of Representatives, each of whom shall be selected by the members of the House of Representatives on the State Central Committee;

(d) Two members of the State Assembly, each of whom shall be selected by the members of the Assembly on the State Central Committee;

(e) Two members of the State Senate, each of whom shall be selected by the members of the State Senate on the State Central Committee;

(f) One County Central Committee representative elected for each 100,000 registered Democrats or portion thereof resident in each county;

(g) All Assembly District Representatives;

(h) All National Committee Members of the Democratic Party;

(i) All officers and immediate past officers of the State Central Committee;

(j) The president of the California Democratic Council and of the California Federation of Young Democrats;

(k) The chair of [sic] co-chairs of each Standing Committee of the State Central Committee; and

(l) The chair of each special Caucus officially recognized by the State Central Committee.

6. On December 8, 1984, the Executive Board, pursuant to the Democratic State Central Committee by-laws, held its last quarterly meeting of 1984 in Los Angeles, California. I was present at and presided over this meeting.

7. At the December 8 meeting, a resolution was presented and adopted regarding the Democratic State Central Committee's support of, and participation in, the lawsuit entitled *San Francisco County Democratic Central Committee, et al.* v. *March Fong Eu, et al.* A true and correct copy of said resolution is attached hereto as Exhibit A.

8. The resolution provides, in part, that the State Central Committee supports said lawsuit in all of its causes of action, affirms its principles and goals, and wishes to assist in its prosecution.

9. In accordance with the December 8 resolution, I am authorized to represent that the Democratic State Central Committee, at an appropriate juncture, will seek to be joined as a plaintiff in this lawsuit with respect to those portions of the third cause of action as to which final judgment has not been entered by this Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of January, 1985 at Los Angeles, California.

/s/ Peter D. Kelly
PETER D. KELLY
State Chair
California Democratic Party

EXHIBIT A
RESOLUTION FOR CONSIDERATON AT
DEMOCRATIC STATE CENTRAL COMMITTEE
EXECUTIVE BOARD MEETING
DECEMBER 8, 1984

WHEREAS: California political parties are subject to state laws severely and excessively regulating their political speech and internal affairs;

WHEREAS: Certain of these state laws forbid political party organizations from endorsing, supporting, or opposing candidates entered in their own primaries or running for local elective office, while other state laws prescribe in extraordinary detail how political party organizations are to organize and govern themselves;

WHEREAS: These state laws substantially burden the fundamental freedoms of speech and association of California political party organizations and their members, which freedoms are guaranteed by the First Amendment to the United States Constitution;

WHEREAS: A lawsuit entitled *San Francisco County Democratic Central Committee, et al.* v. *March Fong Eu, et al.* was filed in the United States District Court for the Northern District of California in November 1983 challenging the validity of these state laws;

WHEREAS: Said lawsuit sets forth three causes of action, the first challenging the restrictions upon political party organizations' ability to endorse, support, or oppose candidates running in party primaries; the second, challenging the restrictions upon political party

organizations' ability to endorse, support, or oppose candidates running for election to school, county, and city offices; and the third, challenging certain restrictions on how political party organizations may organize and govern themselves;

WHEREAS: Plaintiffs in this lawsuit currently include the Democratic County Central Committees form San Francisco, Los Angeles, Alameda, Santa Clara, and Solano Counties; the San Francisco County Republican Central Committee, the State Central Committee of the California Libertarian Party; the chairs or former chairs of various of these central committees; as well as other prominent persons active in California politics;

WHEREAS: Plaintiffs in this lawsuit prevailed in United States District Court with respect to the first cause of action and substantial portions of the third cause of action;

WHEREAS: The District Court's decision with respect to the first and third causes of action has been appealed by defendants, and the matter is presently pending in the Ninth Circuit Court of Appeals;

WHEREAS: The District Court abstained with respect to the second cause of action, pending a ruling by the California Supreme Court in a case known as *Unger, et al.* v. *Superior Court (Unger II)*;

WHEREAS: The California Democratic State Central Committee's Executive Board resolved on October 15, 1983 to support, in principle, this lawsuit;

WHEREAS: Pursuant to Article VIII, section 1 of the by-laws of the California Democratic Party, the Executive Board of the Democratic State Central Committee has all the powers and duties of the Democratic State Central committee when, as now, that body is not in session;

AND WHEREAS: The California Democratic State Central Committee enthusiastically supports this lawsuit in all of its causes of action, affirms its principles and goals, and wishes to assist in its prosecution;

THEREFORE BE IT RESOLVED THAT: The State Party Chair has authority to act on behalf of the State Party, in consultation with the State Party officers, to support and assist in the prosecution of the lawsuit entitled *San Francisco County Democratic Central Committee, et al.* v. *March Fong Eu, et al.* and, without limiting this authority, shall be given specific authority to authorize (1) the joining of the California Democratic State Central Committee and/or its Executive Board as a co-plaintiff in this suit, at such time and in such manner as the Chair deems appropriate and feasible; (2) the filing of amicus curiae briefs or other appropriate legal papers with the courts on behalf of the Democratic State Central Committee and/or its Executive Board to set forth this body's position regarding this lawsuit and to make any appropriate legal arguments in support thereof; (3) the filing of sworn declarations testifying to these actions and to the full support of this body for this lawsuit; (4) the issuance of public statements of support for this lawsuit; and

(5) the taking of any other appropriate actions consistent with this resolution.

ADDENDUM G

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF MARY KING IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, MARY KING, declare as follows:

1. I make this declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am the Chairperson of the Alameda County Democratic Central Committee

(the "County Central Committee"). I have been a member of the County Central Committee since 1979 and have served as Chair since January, 1983. I have been an active participant in the activities of the Democratic Party of California since 1976.

2. The County Central Committee would endorse, support, or oppose candidates for nomination in direct primary elections, including candidates running for State Senate, State Assembly, and United States House of Representatives in June 1984 and in 1986, but for the existence of section 11702 of the California Elections Code (the "Elections Code") and the threat of enforcement of this provision by the defendants.

3. The County Central Committee would endorse, support, or oppose candidates for nonpartisan offices, including candidates running for the County Board of Supervisors, Sheriff, District Attorney, County Clerk, and County Treasurer in the 1984 and 1986 elections, but for the existence of section 6, article II of the California Constitution and section 37 of the Elections Code and the threat of enforcement of these provisions by the defendants.

4. Before the California Courts began holding that the Elections Code and the California Constitution prohibited the endorsement of candidates for nonpartisan office, we endorsed such candidates, including individuals running for the Oakland City Council and for Mayor of Oakland. We believed we were not making these elections "partisan" merely by issuing such endorsement. We did not control

who could run, nor did our endorsement or the endorsee's party affiliation appeal on the ballot.

5. One of the main functions of the County Central Committee is to inform Alameda County voters of the Democratic Party platform, the party's proposals for change, and its positions on other significant issues. Another of its main functions is to ensure that the party leadership, including elected Democratic officials, endorses the beliefs and positions of the Democratic Party of California. Because the County Central Committee is not allowed to endorse, support, or oppose candidates in direct primary elections or in elections for school, county, or city posts, it cannot educate the public about a candidate's position on issues, nor can it work to ensure that Party leaders are committed to the goals and ideals of the California Democratic Party.

6. The County Central Committee's inability to perform its educational function has greatly weakened our party and has disadvantaged the electorate. For example, our Committee would like to but has been unable to oppose a man by the name of Bob Reeder, a member of the Fremont City Council. Mr. Reeder is a registered Democrat, a fact he has publicized widely. Mr. Reeder has been quoted as saying that he registered as a Democrat because it was a wise political move, given that most of his constituents were members of that party. In fact, we believe that Mr. Reeder's positions on political issues are completely antithetical to the positions of our party. Because we are not allowed to speak out in city elections, we cannot set the record straight and

inform the voters of what we believe the facts to be. Thus, Mr. Reeder, by default, is able to use our party label to his advantage.

7. Numerous unofficial groups regularly endorse candidates in primary and nonpartisan elections in Alameda County. These groups include: (a) various political clubs affiliated with the Democratic Party, including the Hayward Demos, the MGO (Montclair Greater Oakland) Democratic Club, the Niagra Democratic Club, the Berkeley Democratic Club, and the Muleskinners Democratic Club; (b) labor organizations, such as the Communication Workers of America, the AFL-CIO, and United Teachers of Oakland; (c) political action committees such as the Berkeley Citizens Action Committee; (d) other politically active associations, such as the Fremont Democratic Forum and the National Women's Political Caucus; and (e) newspapers, such as the Daily Review, the Oakland Tribune, and the San Francisco Newspapers.

8. In contrast to the materials distributed by these groups, which contain endorsements for both partisan primary candidates and candidates for school, county, and city offices, the County Central Committee can issue mailers containing endorsements only for Propositions or Initiatives.

9. As demonstrated in paragraph 7, large numbers of individuals and groups, with widely varying political viewpoints, exercise their freedom to criticize or support candidates in Alameda County. Yet, the County Central Committee, which is the supposed leader of the Democratic Party in Alameda County, and which has among its mem-

bership (as does the Republican County Central Committee) some of the most informed and politically aware citizens, cannot say anything. This is a strange and anomalous result.

10. I became a member of the County Central Committee because I shared the political beliefs of the other members of that organization. I thought that the County Central Committee could advance these shared political beliefs far more effectively than I could as a single individual. One of the key methods available to our County Central Committee to further its shared beliefs is the issuance of endorsements and the public support of political candidates. Even as chairperson of that Committee, my individual endorsement is worth far less than the collective endorsement of the County Central Committee as a whole. Since the Committee cannot endorse in direct primary elections or in elections for school, county, or city officers, our whole purpose in associating together has been frustrated.

11. Our County Central Committee is already engaging in activities in preparation for the June 1984 primary and the November 1984 general election. If our County Central Committee were to issue endorsements in the June 1984 primary races, we would have to begin the endorsement process sometime in April. The period of time between April and June would be spent in distributing notices to the candidates of our intent to endorse, evaluating the candidates, raising money to fund a slate card or mailer, and printing and distributing these endorsement materials.

12. Our County Central Committee would adopt more flexible rules regulating the time and place of our meetings than those contained in sections 8920 and 8921 of the Elections Code. The County Central Committee has not sought to disobey these rules because of the threat of enforcement of these provisions by the defendants.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at Oakland, California, this 29th day of February, 1984.

/s/ Mary King
MARY KING

ADDENDUM H

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed April 9, 1984]

Date: April 9, 1984
Time: 10:30 a.m.

SUPPLEMENTAL DECLARATION OF WALTER W. LAYSON IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, WALTER W. LAYSON, declare as follows:

1. I make this supplemental declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am a resident of Contra Costa County, California and was,

from January 1975 to December 1978 and from January 1983 to October 1983 an elected member, and from 1979 to 1982 an appointed member of the Contra Costa County Republican Central Committee ("County Central Committee"). I have been a registered Republican since 1960 and in 1977-78 was a candidate for nomination in the 7th Congressional District of Contra Costa County. I have chaired GOP Congressional research teams, served as a political advisor in four Congressional campaigns, and was GOP county precinct chair in Contra Costa County from 1975 to 1976.

2. At the present time, I am running uncontested for the Republican nomination in the 7th State Senate District for 1984 and thus expect to be the official nominee of my party.

3. As a candidate for nomination in a Party primary, the restrictions placed on the State and County Central Committees by section 11702 of the Elections Code, forbidding the Committees from endorsing, supporting, or opposing candidates in direct party primary elections, has injured me directly.

4. Section 11702 prevents the County and State Central Committees from helping to pay my filing fee or financially to support my candidacy in any way. They cannot contribute in-kind services, such as secretarial or computer help, until after the June primary. Nor can they endorse me, which would publicize my campaign and improve upon both their and my credibility.

5. Because I am running unopposed, it is unlikely that party factionalism could develop within the County Central Committee over the endorsement of my candidacy.

6. The County Central Committee's endorsement would also have strongly benefitted me in my 1978 campaign for the Party's nomination in the 7th Congressional District.

7. In my long experience in the California Republican Party, I have found that the candidates, not the County Central Committees, run general election campaigns. Because of the complained-of provisions, the County Central Committees are too weak to manage this task. Hence, the County Central Committees have no actual or operational control over the candidate's campaign organization.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 9th day of April, 1984.

/s/ Walter W. Layson
WALTER W. LAYSON

ADDENDUM I

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF LINDA POST IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, LINDA POST, declare as follows:

1. I make this declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am the Chairperson of the San Francisco County Democratic Central

Committee (the "County Central Committee"). I have been a member of the County Central Committee since 1980 and have served as Chair since January, 1983. I have been an active participant in the activities of the Democratic Party of California since 1975, and have joined many unofficial Democratic clubs. From 1980 to 1982, I was a member of the Executive Committee of the Democratic State Central Committee.

2. The County Central Committee would endorse, support, or oppose candidates for nomination in direct primary elections, including candidates running for State Senate, State Assembly, and United States House of Representatives in June 1984 and in 1986, but for the existence of section 11702 of the California Elections Code (the "Elections Code") and the threat of enforcement of this provision by the defendants. In addition, as a voter, a concerned citizen , and an active member of the Democratic Party, I would like the State Central Committee to be able to endorse, support, or oppose candidates in direct primary elections, including candidates running for Governor, Lieutenant Governor, Treasurer, Controller, Secretary of State, and Attorney General. I would not only greatly benefit from knowing the position of the State Central Committee in these elections, I would also encourage and contribute to this endorsement process if that process were not prohibited by the existence of section 11702 and the threat of enforcement of this provision by the defendants.

3. The County Central Committee would endorse, support, or oppose candidates for school, county, or city offices, including candidates running for the County Board of Supervisors, BART Board,

Board of Education in the 1984 and 1986 elections, and for City Treasurer and City Attorney in 1985, but for the existence of section 6, article II of the California Constitution and section 37 of the Elections Code and the threat of enforcement of these provisions by the defendants.

4. Every year that I have been a member of the County Central Committee, someone has suggested that the County Central Committee endorse or otherwise support candidates in direct party primary and school, county, or city elections. The County Central Committee discusses this matter, and invariably concludes that it will not issue such endorsements or support or oppose any candidate in these races because of the threat of enforcement by the defendants or others.

5. Before the California Courts began holding that the Elections Code and the California Constitution prohibited political parties from endorsing candidates running for nonpartisan office, we endorsed such candidates, including individuals running for Mayor, the County Board of Supervisors and District Attorney. We believed that merely by issuing endorsements, we were not making the election "partisan." We did not control who could run, nor did our endorsement or the endorsed candidate's party affiliation appear on the ballot.

6. One of the main functions of the County Central Committee and the State Central Committee is to inform voters of the Democratic Party platform, the party's proposals for change, and their positions on other significant issues. Another of their main functions is to ensure that the

that the Party leadership, including elected officials, is responsive to the beliefs and positions of the members of the Democratic Party of California. Because the County Central Committee is not allowed to endorse, support, or oppose candidates in direct party primary or school, county, and city elections, it cannot educate the public about a candidate's position on issues, nor can it work to ensure that the Party leadership, including elected officials, are held accountable to the members of the California Democratic Party.

7. Numerous groups regularly endorse candidates in direct party primary and school, county, and city elections in San Francisco. These groups include: (a) various political clubs affiliated with the Democratic Party, including the Chinese American Democratic Club, Inc., the Harvey Milk Gay-Lesbian Democratic Club, the Alice B. Toklas Lesbian/Gay Democratic Club, District One Political Action, the Nihonmachi Democratic Club, and the District 8 Democratic Club (true and correct copies of materials distributed by the first four of these groups is appended to this declaration as Exhibit A); (b) other unofficial ad hoc political groups affiliated with the Democratic Party, including United Democrats '82 (a true and correct copy of the mailer distributed by this organization is appended to this declaration as Exhibit B); (c) labor organizations such as San Francisco C.O.P.E. (Committee on Political Education), the political arm of the AFL-CIO (a true and correct copy of a mailer distributed by this organization is appended to this declaration as Exhibit C); (d) other politically active associations, such as the Frederick Douglass Symposium (true and correct copies of a mailer from this organization is appended to this declaration as Exhibit D); (e) newspapers, such as the San Francisco

Chronicle, the San Francisco Examiner, the San Francisco Bay Guardian, and the San Francisco Progress and (f) political action committees, such as Womens' Political Fund.

8. In contrast to the materials distributed by these groups, which contain endorsements for both nonpartisan and primary candidates, the County Central Committee can issue mailers containing endorsements only for Propositions or Initiatives. A true and correct copy of one of these mailers is appended to this declaration as Exhibit E.

9. The laws banning official party endorsements or support have thus created an odd dichotomy between the permissible activities of the official political party organizations on the other hand. As demonstrated in paragraph 7, large numbers of individuals and groups with widely varying political viewpoints exercise their freedom to criticize or support San Francisco political candidates. Yet, the County Central Committee and the State Central Committee, which are the supposed leaders of the Democratic Party in San Francisco and the state, and which have among their memberships (as do their Republican counterparts) some of the best informed and most politically aware citizens, cannot say anything.

10. So long as the official political party organizations are prevented from expressing their views on political candidates, ad hoc groups "borrowing" the word "Democratic" and creating official-sounding titles will continue to have the ability to mislead voters into thinking that their slate mailer originated with, or was approved by, the official party organizations. If the County Central Committee and State

Central Committee were allowed to distribute their own endorsement literature, such confusion could be minimized.

11. In many school, county, and city elections, the race is between a candidate whom people know is a Democrat and a candidate whom people know is a Republican. In the endorsements issued by Democratic Clubs, the Clubs clearly identify themselves as being affiliated with the Democratic Party. Further, major office holders, such as Mayor Feinstein, are widely known to be Democrats.

12. I became a member of the County Central Committee because I shared the political beliefs of the other members of that organization. I thought that the County Central Committee could advance these shared political beliefs far more effectively than I could as a single individual. One of the few ways for our Committee to do this is to issue an endorsement on behalf of the entire group. My individual endorsement is worth far less than such a collective endorsement. Since the Committee cannot endorse in direct party primary elections or in elections for school, county, or city posts, however, our whole purpose in associating together has been frustrated.

13. If our County Central Committee were to issue endorsements in the June 1984 primary races, we would have to begin the endorsement process in early April. The period of time between early April and June would be spent in distributing notices to the candidates of our intent to endorse, evaluating the candidates, raising money to fund a slate card or mailer, and printing and distributing these endorsement materials.

14. Our County Central Committee would adopt rules regulating the time and place of our meetings that are more flexible than those contained in sections 8920 and 8921 of the Elections Code. As a former member of the Democratic Slate Central Committee, I would also like to abolish sections 8660, 8661, 8663, 8664, 8665, 8667, and 8669 of the Elections Code, to allow that Committee to control the method of selecting its own members. In addition, I would favor the adoption of rules regulating the time and place of State Central Committee meetings that are more flexible than those contained in section 8710 of the Elections Code. Neither I nor the County Central Committee has sought to disobey or change these rules because of their existence and the threat of their enforcement by the defendants.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at San Francisco, California, this 29th day of February, 1984.

/s/ Linda Post
LINDA POST

[Exhibits A through E Omitted]

ADDENDUM J

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed April 2, 1984]

Date: April 9, 1984
Time: 10:30 a.m.

SUPPLEMENTAL DECLARATION OF LINDA POST IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, LINDA POST, declare as follows:

1. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am the Chair of the San Francisco County Democratic Central Committee (the "County Central Committee"). I was duly elected to the position of chair by a unanimous vote of the full County Central Committee in January 1983. I have been a member of the County Central Committee since 1980 and have served as Chair since January, 1983.

2. I have read the memorandum filed by the defendants in opposition to Plaintiffs' Motion for Summary Judgment. The defendants' attempt to characterize the plaintiffs as entities and individuals who "have lost power struggles" has no basis in fact. The Democratic County Central Committees for San Francisco, Los Angeles, Alameda, Santa Clara, Solano and Placer Counties are very much in the mainstream of the California Democratic party and are well respected within the State Democratic party. Similarly, I consider myself to be very much in the mainstream of the State and local Democratic party. I have worked with all elements of the party, elected officials, and groups that comprise the constituencies within the party. For example, I have good working relations with Mayor Diane Feinstein; Congresswomen Sala Burton and Barbara Boxer; Peter Kelley, State Chair of the California Democratic party; Peter Kelley's predecessors; and the great majority of the elected officials in San Francisco.

3. The defendants' characterization of the function of county central committees is absolutely wrong. The county central committees do much more than just campaign in the November general elections for their party nominees. In fact, county central committees can and do perform the following functions: (a) voter registration drives; (b) getting the vote out on election day; (c) analyzing local and state ballot propositions, taking positions on such propositions, and publicizing our stands through slate cards, press releases, and other communica-

tions; and (d) taking action on a continuing basis on numerous issues brought to the county central committee by community groups.

4. Prior to the *Unger* decision, we were also able to and did endorse candidates running in school, county, and city elections.

5. Although the San Francisco County Democratic Central Committee is part of the Democratic party, we are an independent working entity, elected locally. The Elections Code provides for the separate election of County Central Committee members. We have our own by-laws separate from those of the State Central Committee. We hire our own staff people, and are empowered and do raise funds independent of the State Central Committee. We can sue and be sued as a separate entity.

6. Differences of opinion regarding issues and candidates is part of democracy, and part of the political process. The full airing of different views is necessary. That's politics. On any issue put before our County Central Committee, there could be a difference of opinion. For example, in the November 1983 elections, we took a stand on each of the sixteen City propositions on the ballot. (*See* Exhibit A to my first declaration, filed March 5, 1984.) The defendants' logic would lead to the result that we should not have had the right to endorse on any of those propositions, because there was a "faction" created every time we had a difference of opinion. That is not what I understand democracy is all about.

7. We have had internal debates within our Committee many times in the past on various issues, but such debate has never "factionalized" the Committee before so as to disable it or to render it ineffective in the general election.

8. If we were afraid that endorsing on a given issue or candidate would be too divisive within our Committee, we could decide to not take a position, which would be our right, and which we have done in the past. The defendants would have the State of California dictate that we refrain from taking positions in all cases. This is paternalism. We are a responsible body that is capable of making the decision "endorse/not endorse" by ourselves.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of April, 1984, at San Francisco, California.

/s/ Linda Post
LINDA POST

ADDENDUM K

[Designation of Counsel Omitted]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-83-5599-MHP

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants.

[Filed March 5, 1984]

Date: April 2, 1984
Time: 10:30 a.m.

DECLARATION OF THOMAS ROMERO IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, THOMAS ROMERO, declare as follows:

1. I make this declaration in support of plaintiffs' motion for summary judgment. I state these facts of my own personal knowledge, and if called as a witness could testify competently thereto. I am the Chairperson of the Placer County Democratic Central Committee (the

"County Central Committee"). I have been a member of the County Central Committee since 1973 and have served as Chair from 1977 to June 1978 and from June 1980 to the present. I have been an active participant in the activities of the Democratic Party of California since 1973.

2. The County Central Committee would endorse, support, or oppose candidates for nomination in direct primary elections, including candidates running for State Senate, State Assembly, and United States House of Representatives in June 1984 and in 1986, but for the existence of section 11702 of the California Elections Code (the "Elections Code") and the threat of enforcement of these provisions by the defendants. Our Committee would have endorsed a candidate for United States House of Representatives in 1980 if it had been legal to do so.

3. One of the main functions of the County Central Committee is to inform Placer County voters of the Democratic Party platform, the party's proposals for change, and the party's positions on other significant issues. Our County Central Committee has even formulated its own platform, a true and correct copy of which is appended hereto as Exhibit A. Another of the County Central Committee's main functions is to ensure that the party leadership, including elected officials, endorses the beliefs and positions of the California Democratic Party.

4. Because the County Central Committee is not allowed to endorse, support, or oppose candidates in primary elections, it cannot educate the public about a candidate's position on issues, including issues

contained in our Committee's platform, nor can it work to ensure that Party leaders are committed to the goals and ideals of the California Democratic Party. We cannot, for example, oppose the state legislators representing our county who voted to impose a fee on community college students, a position opposed to our Committee's platform. Nor can we even educate the public about the legislators' voting records.

5. On numerous occasions, voters have called me up, as Chair of the County Central Committee, to ask what our position is in regard to candidates in primary elections. I have had to respond that the County Central Committee is forbidden by law from commenting on these or other candidates for partisan office.

6. Numerous unofficial groups regularly endorse candidates in primary elections in Placer County. These groups include the County Taxpayers' Association, the Placer County Sheriffs' Association, labor organizations such as C.O.P.E. and the American Federation of Teachers, individual campaign organizations, and newspapers, such as the Auburn Journal, the Roseville Press Tribune, the Colfax Record, and the Lincoln News Messenger.

7. In contrast to these groups, which can endorse primary candidates, the County Central Committee must remain silent. It is unfair that the group most interested in the party platform and the party's position on issues cannot express its opinion while dozens of other individuals and groups freely publicize their views.

8. I became a member of the County Central Committee because I shared the political beliefs of the other members of that organization. I thought that the County Central Committee could advance these shared political beliefs far more effectively than I could as a single individual. Even as chairperson of that Committee, my individual endorsement is worth far less than the collective endorsement of the County Central Committee as a whole. Since the Committee cannot endorse in primary campaigns, our whole purpose in associating together has been frustrated.

9. Our County Central Committee would adopt more flexible rules regulating the time and place of our meetings than those contained in sections 8920 and 8921 of the Elections Code. We would also like to abolish sections 8660, 8661, 8663, 8664, 8665, of the Elections Code, giving the Democratic Party control over the method of selecting the members of its central policy-making organization. In addition, we would favor the adoption of more flexible rules regulating the time and place of State Central Committee meetings contained in section 8710 of the Elections Code. Neither I nor the County Central Committee has sought to disobey these rules because of the threat of enforcement of these provisions by the defendants.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at Auburn, California, this 28 day of February, 1984.

/s/ Thomas Romero
THOMAS ROMERO

[Exhibit A Omitted]

ADDENDUM L

[Designation of Counsel Omitted]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 84-1851
[D. Ct. No. C-83-5599-MHP]

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs/Appellees,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants/Appellants.

[Filed September 15, 1987]

DECLARATION OF MARK W.A. HINKLE IN OPPOSITION TO APPELLANTS' MOTION FOR STAY OF MANDATE

I, MARK W.A. HINKLE, declare as follows:

1. I am and have been since February 1986 the Chair of the Libertarian Party of California. I have been a member of the Executive Committee of the State Central Committee of the Libertarian Party since 1978. I have been since 1980 a member of the Santa Clara County Libertarian Central Committee.

2. The Libertarian Party is a named plaintiff in all three causes of action in the above-captioned lawsuit, and supports this lawsuit wholeheartedly.

3. If the August 18, 1987 decision of the Ninth Circuit Court of Appeals goes into effect in the near future, I expect the Libertarian Party State Central Committee, and the Libertarian Party's county central committees, will actively consider endorsing, supporting, or opposing candidates running for the Libertarian nomination for statewide, Assembly, State Senate, and Congressional offices in the June 1988 primaries.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of September, 1987, at San Jose, California.

/s/ Mark W.A. Hinkle
MARK W.A. HINKLE

ADDENDUM M

[Designation of Counsel Omitted]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 84-1851
[D. Ct. No. C-83-5599-MHP]

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs/Appellees,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants/Appellants.

[Filed November 16, 1987]

SUPPLEMENTAL DECLARATION OF PETER D. KELLY IN OPPOSITION TO APPELLANTS' RENEWED MOTION FOR STAY OF MANDATE

I, PETER D. KELLY, declare as follows:

1. On September 15, 1987, I submitted a declaration to this Court in opposition to appellants' original Motion for Stay of Mandate. Since that time, this Court has denied appellants' petition for rehearing, and appellants have filed a new Motion for Stay of Mandate. Because of the importance of this lawsuit to the California Democratic Party, I file this supplemental declaration . For the convenience of the Court, I

have, where appropriate, repeated portions of my September 15, 1987 declaration herein.

2. I am and have been since January 1987 the Chair of the California Democratic Party. I previously held that position from January 1983 through January 1985. I have been a member of the Executive Board of the California Democratic Party since 1981 and a member of the Democratic Party's State Central Committee since 1971. At various times between 1971 and 1976, I served as the Democratic Party's Executive Director, Southern California Executive Director and Finance Director. I served as General Counsel to the California Democratic Party from 1977 to 1981.

3. I am an attorney by profession, and am a partner in the law firm of Kelly, Aldrich, McAuliffe, Siemens & Hentschel, which is located in Los Angeles, California, and Washington, D.C.

4. The Democratic State Central Committee is the official governing body of the California Democratic Party, as provided in Elections Code § 8777. The By-Laws of the Democratic State Central Committee provide that there shall be an Executive Board which shall have all the powers and duties of the Democratic State Central Committee when it is not in actual session. The Executive Board has approximately 180 voting members.

5. On December 8, 1984, the Executive Board, at one of its regularly scheduled quarterly meetings, adopted a resolution providing in relevant part that the California Democratic Party State Central

Committee supports this lawsuit in all of its three causes of action, affirms its principles and goals, and wishes to assist in its prosecution.

6. In the hope that plaintiffs ultimately would prevail in this lawsuit, Ms. Betty Smith, who was Chair of the California Democratic Party from January 1985 to January 1987, established a Rules Revision Task Force in approximately Spring 1985. This Task Force met on numerous occasions and spent countless hours studying how the party should reorganize itself if the plaintiffs ultimately prevail on the Third Cause of Action, and studying possible endorsement procedures if plaintiffs ultimately prevail on the First Cause of Action. The Rules Revision Task Force has presented its final report to the California Democratic Party's 25-member Rules Committee.

7. I have asked the Rules Committee, which is now studying the Rules Revision Task Force's final report, to make a final recommendation to the Executive Board at its January 1988 quarterly meeting. Assuming this Court's August 18, 1987 decision, as amended on October 29, 1987, is not stayed, the Party's goal is to enact rules and procedures at the January 1988 meeting, which would enable the Party to exercise its power of endorsement in the June 1988 primaries.

8. The Rules Committee has discussed the Task Force's final report and the issue of endorsement procedures at several meetings, including June 5, 1987, September 12, 1987, and October 9, 1987. The Rules Committee also scheduled three regional public hearings to solicit comments from interested Democrats on appropriate endorsement procedures for the 1988 primary elections. The Rules Committee

Committee received testimony from interested Democrats in Fresno on October 24, 1987 and in San Francisco on October 31, 1987, and will take further testimony in Santa Ana on November 14, 1987. The Rules Committee is set to meet again on December 5, 1987 to discuss the public comments, and to come up with a final set of recommendations to be presented on January 9, 1988 to the Executive Board of the State Central Committee. The Executive Board will then adopt a final set of rules for endorsement procedures for the June 1988 primaries. Those procedures will include actual endorsements at the next annual California Democratic Party convention, which will be held on March 18 - 20, 1988, in Palm Springs, California.

9. It is the wish of the California Democratic Party to proceed to endorse in the June 1988 primaries. There is great enthusiasm among the approximately 180 members of the Executive Committee and among the 1,700 members of the State Central Committee for the California Democratic Party to exercise the party's right to endorse, support, or oppose candidates running in the June 1988 primaries.

10. The State Party has received numerous contacts from among the 58 Democratic County Central Committees and the 80 Assembly District Committees of the California Democratic Party, expressing enthusiasm for being able to participate in the endorsement process, seeking guidance on how to participate in the endorsement process, and inquiring about when the State party will complete drafting applicable rules.

11. The level of inquiry in how to become a member of the State Central Committee has markedly increased since the time of the publicity surrounding this Court's original decision in June 1986, and I expect that competition for seats on the State Central Committee will increase substantially in the future.

12. Since the publication of this Court's August 18, 1987 decision, I have observed a substantial increase in the level of interest in the official party organization by candidates and potential candidates for partisan office in California. For example, candidates and potential candidates in the last three months have shown increased interest in spending time with, speaking before, and in participating in the activities of, the State Party.

13. Since 1971, I have held an official position of one kind or another, without interruption, with the California Democratic Party. During those years, I have met literally thousands of Democrats involved at all levels of the party structure. Never before have I seen the members of the official bodies of the California Democratic Party so enthusiastic about their participation in the political process as in the last three months. The reason for this marked increase in enthusiasm is the expectation of party members that, as a result of this lawsuit, they are about to become a much more important factor in California's political process.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of November, 1987, at San Francisco, California.

/s/ Peter D. Kelly
PETER D. KELLY

ADDENDUM N

[Designation of Counsel Omitted]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 84-1851
[D. Ct. No. C-83-5599-MHP]

SAN FRANCISCO COUNTY DEMOCRATIC CENTRAL COMMITTEE, *et al.*,
Plaintiffs/Appellees,

v.

MARCH FONG EU, Secretary of State of the State of California, *et al.*,
Defendants/Appellants.

[Filed November 16, 1987]

DECLARATION OF CAROLE V. MIGDEN IN OPPOSITION TO APPELLANTS' RENEWED MOTION FOR STAY OF MANDATE

I, CAROLE V. MIGDEN, declare as follows:

1. I am and have been since July 1986 the Chair of the San Francisco County Democratic Central Committee, plaintiff in the above-captioned litigation. I have been a member of the county committee since January 1985.

2. The San Francisco County Democratic Central Committee is a plaintiff in all three causes of action in this lawsuit, and wholeheartedly supports the goals of this lawsuit.

3. Our county committee is composed of twenty-four elected members, who are elected by registered Democrats in the 16th, 17th, and 19th Assembly Districts, as well as nine other members who are appointed by Democratic elected public officials.

4. There is a very high level of enthusiasm among the county committee members for the committee to participate in the endorsement process for the 1988 Democratic Party primary elections. We believe that the county committee can play an important role in helping educate the local electorate regarding the qualifications of Democratic candidates.

5. The county committee and its members have followed the progress of this lawsuit very closely over the past several years. As a result of the August 1987 decision in this case by the Ninth Circuit Court of Appeals, our committee members are very excited about the prospect of being able to speak out on the qualifications of Democratic candidates running for partisan office.

6. If the August 1987 decision of the Ninth Circuit Court of Appeals is not stayed, then I expect our county committee, working together with the State Democratic Party, to participate to the fullest

extent possible in the endorsement process for the June 1988 primary elections.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of November, 1987, at San Francisco, California.

/s/ Carole V. Migden
CAROLE V. MIGDEN

ADDENDUM O

No. 87-1269

In the
Supreme Court of the United States
October Term, 1987

MARCH FONG EU, Secretary of State
of the State of California, *et al.*,
Appellants,

v.

SAN FRANCISCO COUNTY DEMOCRATIC
CENTRAL COMMITTEE, *et al.*,
Appellees.

On Appeal from the United States
Court of Appeals for the Ninth Circuit

DECLARATION OF CHARLES H. BELL, JR.

I, Charles H. Bell Jr., declare as follows:

1. I am a partner in the law firm of Nielsen, Merksamer, Hodgson, Parrinello and Mueller which provides general counsel to the State Central Committee of the California Republican Party. I am the partner principally responsible for performing the duties of general counsel to the Republican State Central Committee.

2. I have been authorized by the chairperson of the State Central Committee to provide this declaration concerning the activities of the Committee on the issue of pre-primary endorsements by official party organizations.

3. This supplements my declaration of January 26, 1988 (Jurisdictional Statement and Volume I of the Appendix, pp. 70a-75a).

4. At its February 19-21, 1988 Convention at Santa Clara, California, the California Republican Party ("Republican State Central Committee") amended its Bylaws, inter alia, adopting new Article VII relative to the subject of endorsements in partisan primary elections. (See Attachment "A" hereto).

5. Article VII section 7.01 prohibits endorsements by the Republican State Central Committee and local Republican County Central Committees in contested elections for designated partisan elective offices at the direct primary election.

6. Article VII Sections 7.02 and 7.03 provides for endorsements by the Republican State Central Committee and/or local Republican County Central Committees in special elections for the same designated partisan elective offices.

7. The above-referenced provisions do not constitute a blanket ban on such endorsements: First, endorsements are permitted in special elections subject to the provisions for action and concurrence set forth in Article VII, Sections 7.02 and 7.03. Second, Article VII does not

bar endorsements in uncontested races for such partisan elective offices. Third, the Article VII, Section 7.01 provision may be suspended by a 2/3 vote of the Republican State Central Committee. (Bylaws, Article IX, Section 9.06) Finally, Article VII may be amended by a 2/3 vote of the committee (Amended Bylaws, Article XIII, Section 13.01).

8. The foregoing action was taken by the Committee in response to the new freedom from state regulation which has resulted from the lower court's decision in the case on appeal herein. The substance of the Committee's actions reflect the policy decision of the Committee as to what is in its own best interests and in the interests of the Republican Party as a whole at the present time. The fact that the result was similar to (though as noted above not identical to) that which obtained under state law does not necessarily means [sic] that the Committee concurs in the need for the kind of governmental regulation represented by the provisions invalidated by the lower court herein.

9. Finally, the Republican State Central committee also adopted amendments to Article I, Section 1.01 of its Bylaws (see Attachment "A" hereto) which made substantial changes in the composition of the Committee from those previously required by Sections 9160 and 9160.5 of the California Elections Code, which were invalidated by the lower court. These charges, likewise, reflect the policy decision of the Committee as to what composition is in the best interest of the Committee and the Republican Party as a whole at this time.

The foregoing is true and correct and of my personal knowledge.

Executed under penalty of perjury at Sacramento, California this 23rd day of March, 1988.

/s/ Charles H. Bell, Jr.
CHARLES H. BELL, JR.

ATTACHMENT A

PROPOSED AMENDMENTS TO 1987-88 STANDING RULES AND BYLAWS (as adopted 2/22/87 and amended 9/27/87 and further amended 2/21/88)

PREAMBLE

The CRP does hereby adopt these Bylaws which are comprised of the rules for the composition of the Republican State Central Committee, the election of officers, the management and operation of the Party, the development and promulgation of the Party platform and policies and the rules for the selection of members of the Electoral College to cast votes for President of the United States following the quadrennial Presidential election.

PURPOSE

Be it resolved, that the California Republican Party principles are based upon the precepts of our Nation's Founding Fathers as reflected in the United States Constitution and the Bill of Rights with particular emphasis upon the rights of the individual, limited governmental powers and equity under the law.

The California Republican Party affirms its belief in the free enterprise economic system, private property ownership, individual rights and representative government.

The California Republican Party Central Committee is committed to carry out its charge under the law, to conduct Republican Party political campaigns in behalf of party candidates.

Be it further resolved that the California Republican Party be open, accessible to all and answerable to the people of the State of California.

ARTICLE I
Members

Section 1.01(a) REGULAR AND APPOINTIVE MEMBERS

1. The following shall be regular members of the Committee:

(A) The Republican nominees for each of the following partisan elective offices at the last election held for each office: Governor; Lieutenant Governor; Attorney General; Secretary of State; Controller; Treasurer; Member of the State Board of Equalization; Member of the State Senate; Member of the State Assembly; Member of the United States House of Representatives; and United States Senator.

(B) The Chairman, the Vice Chairman, the immediate Past Chairman of the California Republican Party; and the four persons who most recently served as the Immediate Past Chairman of the California Republican Party.

(C) The Republican National Committeeman and the Republican National Committeewoman.

(D) The Chairman of each Republican County Central Committee;

(E) The Chairman, or the designee of the Chairman, of each statewide Republican volunteer organization chartered by the California Republican Party.

2. The following shall be appointive members of the Committee:

(A) Twelve persons appointed by each Republican nominee who is elected at the last election for the following offices: Governor, Lieutenant Governor, Attorney General, Secretary of State, Controller, Treasurer, United States Senator, and a Member of the State Board of Equalization.

(B) Eight persons appointed by each Republican nominee who is elected a Member of the State Senate, the State Assembly, and the United States House of Representatives.

(C) Twelve persons appointed by the Chairman of the California Republican Party.

(D) Four persons appointed by each of the following party officials: The Vice Chairman of the California Republican Party, the

Republican National Committeeman, and the Republican National Committeewoman.

(E) Four persons appointed by each Republican County Central Committee Chairman.

(F) One person appointed by each nominee for a partisan elective office designated in Section 1.01(a)(1)(A) if the nominee's percentage of the vote exceeds by five percent the percentage of Republican registration in the district, or the state if the office is a statewide elective office.

(G) Persons appointed by each nominee to a partisan elective office who was not elected at the last election for that office, according to the following formula:

(1) One appointment if the nominee received 30 percent or more of the vote for that office;

(2) Three appointments if the nominee received 35 percent or more of the vote for that office.

(3) Five appointments if the nominee received 45 percent or more of the vote for that office.

(4) In addition to subsections (1), (2), and (3), one appointment for each 5,000 new Republicans registered by the nominee if the registrations were submitted through the California Republican

party Operation Bounty program and were not counted in any committee's Republican registrations submitted through the Operation Bounty program during the same election cycle.

(H) Persons appointed by statewide Republican volunteer organizations chartered by the California Republican Party, according to the following formula:

(1) One person appointed by each of the organizations.

(2) Two appointments by each of the following organizations: California Federation of Republican Women; California Republican Assembly; California Republican League; California Young Republicans; and California College Republicans.

(3) In addition to subsections (1) and (2), one appointment each 5,000 new Republicans registered by the volunteer organization and submitted through the Operation Bounty program including registrations submitted by County Central Committees attributable to the volunteer organization, during the last two-year election cycle.

(I) Persons appointed or elected by Republican County Central Committees, in the manner determined by that Committee, according to the following formula:

(1) One appointment for each county in which the Republican Party has a plurality or better of the registered voters in the county at the close of registration prior to the general election.

(2) In addition to subsection (1), one appointment (up to a cumulative total of 4) for each county in which the Republican nominee for President of the United States, for Governor and United States Senate receives 25,000 votes more than his nearest general election opponent at the last election for each such office.

(3) In addition to subsections (1) and (2), one appointment for each 5,000 new Republicans registered, within that county during the last two-year election cycle and submitted by the County Central Committee through the Operation Bounty program, excluding those counted as part of a nominee's registrations pursuant to subsection (F).

Section 1.01(b) TERM OF MEMBERSHIP

(1) The term of each regular member designated in Section 1.01(a)(1)(A) shall commence upon his or her nomination to the qualifying office and shall be for a period of two years until his or her successor is nominated. In the case of a regular member who is nominated for partisan elective office at a special election, the term shall commence upon his or her nomination for that office and shall continue until the nomination of his or her successor thereafter. In the case of regular members nominated for partisan elective offices with a

four year term, they shall serve successive two-year terms, as appropriate.

(2) The term of each regular member designated in Section 1.01(a)(1), subsections (B) through (E) inclusive, shall commence two days after his or her election to the qualifying office and shall continue until the day after his or her successor is elected. In case of the National Committeeman and National Committeewoman, they shall serve successive two-year terms commencing September 1 of each even-numbered year.

(3) The term of an appointive member shall be two years and shall commence on the first day of the organizational convention held in each odd-numbered year and shall end the day before the next organizational convention.

(4) In the case of persons appointed by a Chairman or Vice Chairman, they shall serve from the day on which they are appointed until the day before the convening of the next organizational convention.

Section 1.01(c) MEMBERSHIP

A person shall have no more than one membership.

If a person holds a partisan elective office, and becomes a nominee for a second partisan elective office, he shall retain the membership of the elected office.

If a person holds membership as a nominee, and becomes a nominee for a second partisan elective office, he shall retain membership based upon the second nominee position.

Except as provided above, if a person attains the right to serve as a regular member by election to more than one office designated in Section 1.01(a)(1), the person shall hold membership based upon the priority order set forth in Section 1.01(a)(1).

In all of the above situations, the other membership shall be considered vacant due to ineligibility.

Section 1.01(d) VACANCIES

A vacancy shall exist in a regular or appointive membership if the member: is ineligible for the reason set forth in Section 1.01(c) of these Bylaws, resigns, dies, ceases to be registered to vote as a Republican, is certified as incapacitated, or is removed from the Committee pursuant to Section 1.02.

If a regular member vacates his or her membership, a vacancy shall exist in the offices of appointive members who were appointed by that regular member, which shall be filled by his or her successor.

Section 1.01(e) FILLING OF VACANCIES

(1) A vacancy in an appointive membership shall be filled by the regular member who has the power to make the appointment pursuant to these Bylaws, and shall be for the balance of the term of the vacant membership.

(2) A vacancy in a regular membership shall be filled in the following manner:

(A) Vacancies in the nominees for the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Controller, Treasurer, Member of the State Board of Equalization, United States Senator and Republican National Committeeman and Republican National Committeewoman, or any other vacancy not specifically provided in this section or filled as provided in this section, shall be filled by the appointment of the Chairman of the California Republican Party, with the concurrence of a majority of the Committee or the Executive Committee.

(B) Vacancies in the nominees for the office of Member of the State Senate, Member of the State Assembly or Member of the United States House of Representatives shall be filled by the election of the Republican County Central Committee which has the largest number of registered Republicans of any county which has jurisdiction over that office. An election to fill the vacancy shall be held not later than 60 days after notice of the vacancy is sent by the Committee to the appropriate Republican County Central Committee(s). A vacancy in

such office shall be filled only by a person who is a registered Republican voter within the Senate, Assembly or Congressional district to be represented.

Section 1.01(f) APPOINTMENTS

An appointment to membership, to be effective for any convention or meeting of the Committee, shall be made in writing by the person or Committee authorized to make such appointment, and shall be made either by personal delivery, guaranteed overnight delivery, or by delivery by first-class mail, postage prepaid, to the office of the Committee set forth in Article VII of these Bylaws, and shall be postmarked no later than 10 calendar days before the date on which the convention or meeting convenes.

Section 1.02 ASSOCIATE MEMBERS AND YOUTH ASSOCIATE MEMBERS.

Each regular member of the Committee may appoint the following: (a) Four persons at least one of whom shall be between 18 and 30 years of age. There shall be designated as Associate Members of the Committee. (b) Two persons each of whom shall be between the ages of 16 and 21 years and shall be a registered Republican or shall have indicated his intention to affiliate with the Republican Party upon reaching voting age. They shall be designated as Youth Associate Members of the Committee. Each appointment shall be made in writing signed by the regular member and filed with the Committee. Associate Members shall have all of the privileges, rights, and duties

of other members, except that they shall be entitled to vote only when designated, qualified, and acting as a proxy for a member at any regular committee or standing committee meeting. Youth Associate Members shall have all privileges, rights, and duties of other Associate Members. However, a Youth Associate Member not registered with the Republican Party shall not be designated as a proxy and be allowed to vote. Associate Members, once appointed, shall continue to serve as Associate Members during successive terms of the Committee upon the condition that all dues required by these Bylaws are paid on a current basis. This section shall in no way affect the right of each Regular Member to make additional appointments pursuant to subsection (a) to each successive Committee.

****

ARTICLE VII
ENDORSEMENTS

Section 7.01. PRE-PRIMARY ENDORSEMENTS FOR PARTISAN ELECTIVE OFFICE/DIRECT PRIMARY

Neither the Committee nor any Republican County Central Committee shall endorse, support or oppose any candidate for the Republican nomination in a contested election for any partisan elective office at a direct primary election, except as specified in Section 7.02 with respect to a special election for nomination or election to a partisan elective office.

Section 7.02 PRE-PRIMARY ENDORSEMENTS FOR PARTISAN ELECTIVE OFFICE/SPECIAL PRIMARY ELECTION

Where there is more than one Republican candidate for nomination for election in a special primary election, the Committee shall not endorse, support or oppose any candidate for the Republican nomination or election to any partisan elective office in such a special election, except in the following manner and circumstances:

(a) written notice of the proposed action has been given at least ten (10) days in advance of the meeting of the Board of Directors to all persons entitled to vote and to all Republican candidates for nomination or election to any office which may be the subject of Committee action;

(b) a hearing is held and the candidates affected are given an opportunity to appear; and

(c) one of the following situations occurs:

(1) a candidate receives a three-fourths (3/4) majority vote of the Board of Directors, which vote is in concurrence with a previous endorsement, support or opposition voted by the Republican County Central Committee(s) having jurisdiction over the affected district office, as provided in Section 7.03; or

(2) if the Republican County Central Committee(s) having jurisdiction over the affected district office has (have) not voted to

endorse, support or oppose a candidate for the affected district office as provided in Sections 7.03 at least thirty (30) days prior to the special primary election, a candidate receives a three-fourths (3/4) majority vote of the Board of Directors.

Section 7.03 REPUBLICAN COUNTY CENTRAL COMMITTEE PRE-PRIMARY ENDORSEMENTS FOR PARTISAN ELECTIVE OFFICE/SPECIAL PRIMARY ELECTIONS

Where there is more than one Republican candidate for nomination or election in a special primary election, no Republican County central Committee shall endorse, support or oppose any candidate for nomination or election at a special primary election except in the following manner and circumstances:

(1) notice of the proposed action is given at least thirty (30) days in advance of the Central Committee meeting to all persons entitled to vote and to all candidates for nomination to any office which may be the subject of committee action;

(2) a hearing is held and the candidates affected are given an opportunity to appear;

(3) a candidate receives a two-thirds (2/3) majority vote; and

(4) the action is concurred in by all other Republican County Central Committees which have jurisdiction over the affected election district,

in compliance with the provisions of subsections (1) through (3) above.

Section 7.04 DEFINITIONS

(a) "Partisan elective office" includes the offices of President of the United States, Governor, United States Senator, Lieutenant Governor, Attorney General, Secretary of State, Controller, Treasurer, Member of the State Board of Equalization, Member of the United States House of Representatives, Member of the State Senate; Member of the State Assembly; and member of the Republican County Central Committee.

(b) "District office" means Member of the United States House of Representatives, Member of the State Senate, and Member of the State Assembly.

ADDENDUM P

No. 87-1269

In the
Supreme Court of the United States
October Term, 1987

MARCH FONG EU, Secretary of State
of the State of California, *et al.*,
Appellants

v.

SAN FRANCISCO COUNTY DEMOCRATIC
CENTRAL COMMITTEE, *et al.*,
Appellees.

On Appeal from the United States
Court of Appeals for the Ninth Circuit

**DECLARATION OF MARK W.A. HINKLE
IN SUPPORT OF
APPELLEES' MOTION TO AFFIRM OR TO DISMISS**

I, MARK W.A. HINKLE , declare as follows:

1. I was the chair of the Libertarian Party of California from February, 1986 until February 15, 1988. I am and have been a member of the Executive Committee of the State Central Committee of the Libertarian Party since 1978.

2. On September 15, 1987, I submitted a declaration to the Ninth Circuit Court of Appeals in Opposition to Appellants' Motion for Stay of Mandate. For the convenience of this Court, I am repeating in this declaration portions of my earlier declaration.

3. The Libertarian Party is a named plaintiff in all three causes of action in the above-captioned lawsuit, and supports this lawsuit wholeheartedly.

4. During my term as chair of the Libertarian Party, I monitored the developments in this lawsuit. In December 1987, I was notified that the United States Supreme Court had denied Appellants' Motion for Stay of Mandate, thereby clearing the way for the Libertarian Party to exercise its right of endorsement in partisan primary elections.

5. On February 12-15, 1988, the Libertarian Party held its annual convention in San Diego. At this annual convention, the Libertarian Party exercised its right of endorsement. Specifically, the Libertarian Party endorsed the candidacy of Mr. Jack Dean, who will be running in the June 1988 Libertarian Party primary for the office of United States Senator.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of March, 1988 at San Jose, California.

/s/ Mark W.A. Hinkle
MARK W.A. HINKLE

ADDENDUM Q

No. 87-1269

In the
Supreme Court of the United States
October Term, 1987

MARCH FONG EU, Secretary of State
of the State of California, *et al.*,
Appellants,

v.

SAN FRANCISCO COUNTY DEMOCRATIC
CENTRAL COMMITTEE, *et al.*,
Appellees.

On Appeal from the United States
Court of Appeals for the Ninth Circuit

**DECLARATION OF PETER D. KELLY
IN SUPPORT OF APPELLEES'
MOTION TO AFFIRM OR TO DISMISS**

I, PETER D. KELLY, declare as follows:

1. In the above-captioned litigation, I have filed the following declarations:

a. On January 16, 1985, a Declaration with the District Court, notifying appellants and the court that although the California

Democratic Party was not a plaintiff at the time the complaint was filed, it subsequently passed a resolution on December 8, 1984 that declared its support for this lawsuit in all three causes of action, and its intention to be joined as a plaintiff in the lawsuit with respect to those portions of the third cause of action not resolved on summary judgment;

b. On September 15, 1987, a Declaration with the Ninth Circuit Court of Appeals in Opposition to Appellants' Motion for Stay of Mandate; and

c. On November 16, 1987, a Supplemental Declaration with the Ninth Circuit Court of Appeals in Opposition to Appellants' Renewed Motion for Stay of Mandate.

2. In my capacity as chair of the California Democratic Party from January 1983 through January 1985, and, again, from January 1987 through the present, I have followed closely the developments in this lawsuit. After this Court, by the December 4, 1987 order of Justice Sandra Day O'Connor, denied Appellants' Motion to Stay Mandate, the California Democratic party proceeded with its plans to evaluate and endorse Democratic candidates running in the June, 1988 partisan primaries.

3. On January 9, 1988, the Executive Board of the State Central Committee adopted a final set of rules governing the endorsement procedures for the June, 1988 primaries. These rules have been incorporated into the party's by-laws as Article 11, a true and correct

copy of which is attached hereto as Exhibit A. (The copy of Article 11 that was submitted by the Attorney General in connection with Appellants' Jurisdictional Statement, is not the final version.)

4. Article 11 provides for the party's possible endorsement of candidates seeking the Democratic nomination for any partisan office other than the President of the United States.

5. Article 11 provides that the question of endorsements of Democratic candidates for state-wide offices, such as Governor, Lieutenant Governor, State Attorney General, Controller, and United States Senator, is addressed directly by the entire State Central Committee.

6. The question of endorsements for all offices other than state-wide offices, for example, State Assembly, State Senate, and United States Congress, are initially made in regional pre-endorsing conferences. The voting participants at each pre-endorsing conference are: all State Central Committee members resident in the district in question, all County Central Committee members resident in the district, and the designated assembly district representatives from other Democratic clubs and organizations. If a particular candidate at a regional pre-endorsing conference receives 70% or more of the votes, the candidate's name is then eligible to be placed on the consent calendar of the full State Central Committee's endorsing convention.

7. Thus, Appellants' statement that our party's by-laws "virtually prohibit pre-primary endorsements by party county central committees" is misleading. In fact, county central committee members play a vital role in the evaluation and endorsement of candidates running in local partisan races.

8. The reason county central committees participate through regional conferences is that often times, partisan districts overlap county lines. The regional endorsement procedure avoids having multiple county central committee endorsements in the same race, which could lead to voter confusion and to dilution of the impact of endorsement.

9. Pursuant to Article 11, sixteen regional pre-endorsing conferences were held on February 20-21, 1988 throughout the State of California.

10. On March 18-20, 1988, the Democratic Party held its annual convention in Palm Springs. The major purposes of this annual convention were to endorse Democratic candidates for the numerous partisan offices and to adopt the party's platform. As a result of the procedures described above, we endorsed over 125 candidates for partisan office.

11. Appellants, in their Jurisdictional Statement, state that the California Democratic Party attempted to restore the prohibition on pre-primary endorsements, following this Court's denial of stay of mandate. Nothing could be further from the truth. As I have set forth in my prior Declarations, and as I have described above, the pre-primary endorsement is a privilege that the California Democratic Party has

has struggled to obtain for many years. The March 18-20 convention was widely hearalded as our party's first endorsing conference. Ironically, the Attorney General himself was present at our annual convention and was a featured speaker.

12. Based on my many years of involvement in the State Democratic Party, I can say that the privilege of pre-primary endorsements has revitalized the Democratic Party. Since the adoption of the party's endorsement rules in January 1988, there has been considerably more interest at the grass roots level in participating in party activities. In addition, elected Democratic public officials have been markedly more solicitous of the views of the California Democratic Party. These are two of the objectives the endorsing privilege was designed to achieve.

13. Now that the California Democratic Party is free to adopt such organizational rules as it believes best serve its interests, I have directed the Rules Committee to prepare their recommended changes in the by-laws regarding, among other items, procedures for selecting the members of the State Central Committee. The Rules Committee will submit their recommendations to the Executive Board in August 1988, which I am confident will result in substantial improvements in the internal organization of our party structure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California, this 28th day of March, 1988.

/s/ Peter D. Kelly
PETER D. KELLY

EXHIBIT A

ARTICLE II

ENDORSEMENT OF CANDIDATES FOR PARTISAN AND NONPARTISAN OFFICE

Section 1. PRESIDENT OF THE UNITED STATES

a. The State Central Committee of the California Democratic Party, Democratic County Central Committees, and all official units of the California Democratic Party shall not endorse any candidate for delegate to the Democratic National Convention and shall not endorse candidates for President of the United States until the Democratic National Convention has been held.

b. Individual members of the organizational units identified in subsection (a) of this section are in no way precluded from endorsing delegates to the Democratic National Convention nor a candidate for the Democratic Presidential nomination. The party office of members making such an endorsement may be indicated in that endorsement for identification purposes only.

Section 2. PARTISAN PUBLIC OFFICES OTHER THAN PRESIDENT

a. Endorsement of candidates for the Democratic nomination to any partisan office other than President shall take place during a duly noticed "endorsing convention" of This Committee held after the closing date for filing declarations-of-intent-of-candidacy for the offices to be voted upon. (See subsection (e) below for an exception to this provision.)

b. This Committee shall make every reasonable effort to assure that with respect to each and every office embraced by the provisions of the subsection (a) above there shall be at least one candidate who has filed, who wishes the party's endorsement, and who is worthy of consideration for that endorsement.

c. Endorsement in any given primary race shall be made by an "endorsing caucus" of members of This Committee resident in the geographic area covered by the office in question and shall be subject to ratification by the full membership of This Committee, except in the case of the Board of Equalization which shall be treated as a state wide office.

(1) Endorsing caucuses shall be chaired by persons designated by the Chair of This Committee. In addition to presiding over the endorsing caucus in conformity with these by-laws and with the principles of fairness to which this Party is committed, persons designated as Chairs shall be responsible – upon the advice and assistance of the State Chair – for publicizing, in the relevant local media of communication, the results of the endorsing and ratifying process with respect to the candidate(s) considered by the caucus he/she chairs.

(2) Endorsing caucuses shall be held at places and times during the endorsing convention which are designated by the Chair of This Committee consistent with achieving an orderly, convenient and fair process.

(3) Each candidate entered in a forthcoming Democratic primary and subject to the provisions of this section may request to be considered for the Democratic Party endorsement, and may request to appear before the relevant endorsing caucus.

(4) Each candidate seeking the endorsement of the California Democratic Party shall submit to This Committee, in advance of the endorsing convention, a nonreimbursable filing fee of $100 in the case of statewide public offices and $50 in all other cases.

(5) Fifty percent plus one of the credentialed members of an endorsing caucus shall constitute a quorum.

(6) Voting at all the endorsing caucuses shall be by a roll call vote.

(7) Members of an endorsing caucus shall be presented with a "No Endorsement" option on all endorsement votes.

(8) No endorsing caucus may endorse more candidates than there are seats for the office in question.

(9) Endorsement of an incumbent candidate seeking re-election shall require a vote of simple majority of the caucus members present and voting. Endorsement of all non-incumbent candidates shall require 60% of those caucus members present and voting. In the event that on a given endorsing vote neither a candidate nor a "No Endorsement" receives the required majority, then a new vote shall be taken wherein the name of any withdrawn candidate or, if none has withdrawn, the name of the candidate with the lowest number of votes on the previous vote shall no longer be put before the members of the endorsing caucus. Before any vote, each candidate shall be given an opportunity to withdraw in favor of some other candidate.

d. Decisions of the endorsing caucus shall be subject to ratification by the full membership of This Committee, except with respect to candidates for statewide public office.

(1) In the case of a statewide public office, This Committee's ratification of the endorsing caucus' decision shall be assumed, since the endorsing caucus is comprised of all members of This Committee.

(2) Ratification of endorsing caucus decisions on which no objection has been filed under the provisions of (3) below may be achieved by a vote of Acclamation which embraces as many such decisions as deemed appropriate by the Chair of This Committee.

(3) Formal objection to the ratification of an endorsing caucus decision must be signed by at least 200 credentialed members of This Committee and filed with the State Chair one hour in advance of the period set aside for ratification votes.

(4) Consideration by This Committee of endorsing caucus decisions to which objection has been filed under (3) above shall occur

prior to voting on the ratification of other caucus decisions and shall include the presentation of arguments for and against ratification.

(5) In the event fifty percent plus one of the members of This Committee present and voting fail to vote to ratify an endorsing caucus decisions to which formal objection has been filed, the endorsing caucus decision shall be considered "vacated."

(6) The California Democratic Party shall be considered to have made "No Endorsement" where a caucus decision has been vacated unless the members of This Committee decide to endorse a substitute candidate.

(a) Substitute candidates may be nominated from the floor immediately following the vacating of the relevant endorsing caucus.

(b) Substitute candidates must have been considered for endorsement by the relevant endorsing caucus.

(c) To become the endorsed candidate of the California Democratic Party a substitute candidate must receive 75% of the vote of the members of This Committee present and voting.

e. In the case of a special election where an endorsement cannot be made at the biennial endorsing convention of the California Democratic Party, the Chair of This Committee shall convene an endorsing caucus of the members of This Committee resident in the relevant district. Such caucus shall proceed in accordance with the relevant procedures provided for in subsection (c) above and its decision shall be subject to ratification by the Executive Board of This Committee under procedures consistent with those identified in subsection (d) above.

f. Only Democratic candidates for nomination to partisan public office who have been endorsed in accordance with the foregoing provisions shall be deemed official candidates of the California

Democratic Party and be entitled to the privileges and benefits associated therewith.

g. To assure the effectiveness of the Democratic Party's endorsing process, This Committee: (1) hopes and expects that all of its members will make every reasonable effort to recruit and encourage persons of the highest quality to seek the Party's nomination and endorsement in races for partisan public office; (2) hopes and expects that all of its members will make every reasonable effort to see that endorsed candidates receive the Party's nomination and, in due course, are victorious in the general election; (3) hopes and expects that all of its members will make every reasonable effort to see that those aspirants for the Party's endorsement who fail to receive that endorsement withdraw as candidates in the Democratic primary and encourage a unified effort on behalf of the endorsed candidates; and (4) intends to protect the integrity of its endorsing power by precluding – including through the use of legal process other entities from representing themselves a purveyors of an official Democratic Party endorsement.

h. To assure the effectiveness of the Democratic Party's endorsing process, This Committee is committed to the principle that the Democratic Party as an organization shall speak with one voice with respect to the endorsement of candidates for the principle that This Committee shall be broadly and fairly representative of the various components of the Party.

(1) The Executive Board of This Committee shall consider and may approve a request for a variance from these provisions submitted by a County Central Committee wishing to render an independent endorsement of a "favorite son" or "favorite daughter" candidate for the Democratic nomination to statewide partisan public office. In the event such a variance is granted, the endorsed candidate shall not be considered, and shall not be presented as the endorsed candidate of the California Democratic Party unless he/she is also endorsed in accordance with the procedures described in the foregoing sections of this Article.

(2) Any official unit or any Democratic County Central Committee of the California Democratic Party which renders an independent, unauthorized endorsement of a candidate for partisan public office shall forfeit its right to representation on This Committee and the privileges and benefits which may be attached thereto for a period of 12 months from the time it renders such an endorsement, or the remainder of the term of the current State Central Committee, whichever is longer.

i. "Pre-endorsing Conferences" shall be held at the regional level prior to the State endorsing convention.

(1) The time and place of each pre-endorsing conference shall be determined by the State Chair in consultation with the Party's Regional Directors.

(2) In the event that any Senate District or Congressional District falls into more than one Region, the State Chair shall assign those districts to a single regional pre-endorsement conference for the purposes of making the recommendation set forth in this section, due consideration being given to conflicting conference dates so as to allow for full participation. When an eligible voter in a Senate or Congressional District does not reside in the designated Region for that office, a written, signed statement from the eligible voter shall be recorded as part of the roll call vote if received by the designated Regional Director prior to the beginning of roll call for the vote in the designated Region.

(3) The State Chair shall be responsible for providing each voting participant with notification of the time and place of the relevant pre-endorsing conference. Regional Directors shall be responsible, upon the advice and assistance of the State Chair, for generally publicizing pre-endorsement conferences.

(4) Each pre-endorsing conference shall be chaired by the relevant Regional Director or, in the event that there is no Regional Director available for this purpose or the Regional Director is a candidate for nomination to a partisan public office, by a person designated by the

State Chair. The State Chair shall designate a Secretary for each Regional pre-endorsing conference.

(5) Voting participants at each pre-endorsing conference shall be:

a. All members of This Committee resident in the district;

b. All regular County Committee members resident in the district;

c. A designated Assembly District representative from chartered clubs and organizations. Each chartered Democratic club or other County Committee chartered organization is entitled to one (1) representative for each Assembly District contained in the club membership. These Assembly District representatives will vote only in the Districts in which they reside. The representative must have been designated as the Assembly District representative by January 24, 1988.

(6) No proxy voting shall be allowed at pre-endorsing conferences. It shall be the responsibility of each Regional Director, with the assistance of the relevant County Committee Chair(s) and Assembly District Committee Chair(s) to identify by name all present who will be eligible voters at his/her regional pre-endorsing conference and to transmit the names of all such voters to the State Chair, along with the Assembly District, Senate District and Congressional District in which each resides 30 days before the pre-endorsing conference.

(7) Each candidate for the Democratic nomination to a partisan, non-statewide public office whose jurisdiction extends into, or is included in a given Region, shall be permitted to address the relevant pre-endorsing conference or to designate a representative to address said conference.

(8) Any voting participant may offer for conference consideration the name of a candidate for the Democratic nomination to a partisan, non-statewide public office whose jurisdiction extends into, or is

included within the given Region, except as provided in Section 2:i:2 above.

(9) Once the names of candidates for a given office have been thus offered, a single roll call vote shall be taken as to the preferences of the eligible voting participants. A "no preference" option shall be available at the time of each vote.

(10) Eligibility to vote with respect to a given office shall be limited to those conference participants resident in the election district in question.

(11) The Chair of the pre-endorsing conference is responsible for transmitting to the State Chair, in writing, the results of all votes taken within three days of the pre-endorsing conference.

(12) A candidate's name may be placed on the consent calendar of This Committee's endorsing convention upon receiving a 70% vote at a pre-endorsing conference. The consent calendar shall be approved by a simple majority vote of This Committee. Upon approval of the consent calendar the candidate shall become the endorsed candidate of the Democratic Party.

A name may be removed from the consent calendar by any five (5) members of This Committee resident in the District in question by filing a letter of objection with the State Chair no later than ten (10) days prior to the State Endorsing Convention. If a name is removed from the consent calendar, the By-laws of This Committee regarding endorsements shall apply.

j. All winners of the Democratic primaries will be deemed to be the endorsed candidates of This Committee, unless 75% of the members of its Executive Board, present and voting, object.

k. The only form of endorsement of a candidate for Partisan Public Office is an "Official Endorsement" as provided for under these by-laws. Unless a candidate has received an "Official Endorsement" all motions of support, recommendation, or other expressions of

approval, no matter how denominated, shall be out of order at any meeting of This Committee, its Executive Board, its Regions, its Assembly District Committees or its caucuses.

1. This Committee shall not endorse candidates for County Central Committee.

Section 3. NONPARTISAN OFFICES

a. Endorsement of candidates for all local nonpartisan offices (defined here as all nonpartisan offices whose jurisdiction does not extend across county lines) shall be the exclusive responsibility of the relevant Democratic County Central Committee.

b. A democratic candidate for nonpartisan office who has been endorsed by his/her County Central Committee shall also be considered to be the endorsed candidate of the California Democratic Party and shall be entitled to such privileges and benefits as may be attached thereto (*e.g.*, an opportunity, where appropriate, to include his/her name in informational material distributed with the California Democratic Party's mailing permit) provided that: (1) The endorsing provisions of the relevant County Central Committee by-laws have been reviewed and approved by This Committee as consistent with its own by-laws and with the fundamental rules of fairness to which the California Democratic Party is committee; and (2) A Democratic candidate who has been denied endorsement does not successfully argue before This Committee that there has been a significant violation of the endorsing provisions of the relevant County Central Committee when it rendered its endorsement. Any claim of by-laws violation must be filed with the State Party Chair within five (5) days of County Committee endorsement. Any claim of by-laws violation must be filed with the State Party Chair within five (5) days of County Committee endorsement. A 2/3 vote shall be necessary to uphold the violation claim.

c. In order for the endorsement of the County Central Committees to become the official endorsements of the California Central Committee, the following must be met:

(1) A Democratic County Central Committee endorsement shall be extended only to registered Democrats.

(2) Endorsement shall not be given to more candidates than there are seats open for the office in question.

(3) All endorsements shall be made in accordance with the Committee By-laws provisions duly adopted at least six months prior to making such an endorsement.

d. A County Central Committee's by-laws may provide that the Committee shall not endorse candidates for any or all offices embraced by subsection (a) above, and/or may provide for a "No Endorsement" decision with respect to any or all such offices.

e. A County Central Committee's by-laws may provide that voting rights with respect to its endorsements shall extend to Associate Members and/or to all members of This Committee resident in the county.

f. This Committee shall be responsible for endorsing candidates in any race for nonpartisan office not identified in subsection (a) above. In the case of nonpartisan offices which are not statewide but embrace all or part of two or more counties, This Committee shall delegate its endorsing power to a specially organized body including Democratic County Central Committee members resident in the election district. It shall be the responsibility of the State Chair, in consultation with the relevant County Committee Chairs to determine the manner in which that delegated power is to be implemented (*e.g.*, to determine the voting rights of Associate members of the relevant County Committees, whether and how endorsing votes may be weighted to take into account the distribution of the district population among the affected counties, etc.

g. To the extent permissible, the position of a Democratic County Central Committee on a local proposition being put before the voters within its jurisdiction may be communicated in informational material distributed with the California Democratic Party's mailing permit so long as the following conditions obtain:

(1) the County Committee position has been duly adopted in accordance with Committee by-laws reviewed and approved by This Committee;

(2) the material does not express the endorsement of a candidate for local nonpartisan office who is not also an endorsed candidate of the California Democratic Party under subsection (b) above;

h. The County Committee position shall be the position of This Committee unless an objection is filed with the State party Chair which: (a) is signed by at least one-half of the members of This Committee resident in the relevant county, and (b) is submitted within five days of the adoption of the County Central Committee position.

i. The provisions of this section (with the exception of subsection (e) above [)] shall become effective if and when Party endorsements in nonpartisan races become legally permissible.

j. This Committee hopes and expects that every County Central Committee shall make every reasonable effort:

(1) to see that at least one qualified, registered Democrat is a candidate for each local nonpartisan office within its endorsing jurisdiction;

(2) to raise funds sufficient to provide significant support to endorsed candidates needing and wishing support;

(3) to persuade Democrats running against endorsed candidates to withdraw from their races and to extend their support to those carrying the endorsement;

(4) to protect the integrity of its endorsement power by precluding – including through the use of legal processes – other entries from representing themselves as purveyors of an official Democratic Party endorsement.